

Benyam and Paula R. Mulugeta  
1025 Harker Ave.  
Palo Alto, Ca. 94301  
Tel: 650-906-8012  
Email [bmulugeta1020@gmail.com](mailto:bmulugeta1020@gmail.com)

**FILED**

OCT 29 2010

Debtors in Possession

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA**

CLERK  
United States Bankruptcy Court  
Northern District of California

In Re:

Benyam and Paula R. Mulugeta

Case No. 09-51900 ASW  
CHAPTER 11

Debtors

Date: November 3, 2010  
Time: 2:15 pm  
Room: 3020

Judge: The Honorable A. Weissbrodt

**OPPOSITION TO HENRY C.KOEHLER, TRUSTEE OF HENRY C. AND  
IRMGARD M. KOEHLER REVOCABLE TRUST; NANCY BERKOWITS; AND  
MARTIN AND INGER KIRSCHENBAUM, SECURED PARTIES AND SERVICING  
AGENT FOR SECURED PARTIES, SEQUOIA MORTGAGE CAPITAL, Inc. ("Secured  
Party") MOTION FOR RELIEF FROM STAY**

Debtors, Benyam and Paula R. Mulugeta (jointly "Debtors") submit this opposition to the Motion for Relief from Stay submitted by "Secured Party" regarding Debtor's Real property located at 1025 Harker Ave. Palo Alto, CA. 94301, "Harker".

**1- EQUITY**

Debtors argue that the property has enough equity; thus, the "Secured Party" interest is very well protected.

Fair Market Value	\$3,000,000.00 +
Less	
JPMorgan Chase loan	\$1,633,777.06
Sequoia Mortgage and "Secured Party" total loans	\$610,000.00

**EQUITY ON THE PROPERTY \$756,223.00**

**2- ADEQUATE PROTECTION**

Debtors will start paying \$1,600.00 per month starting December 10, 2010 from rental income of the property until refinance or modification of the loan is possible. In addition Debtors is planning to pay from the sale of Harrison property the pre-petition and post-petition owed to "Secured Party" to make the loan current. Debtors can be able to pay one lump sum amount from the sell of "Harrison" providing "Secured Party" discount the notes. Debtors already sent a letter to Sequoia Mortgage Capital to negotiate modification of the loan or one lump sum payment settlement.

**DEBTORS OPPOSITION TO SEQUOIA MORTGAGE CAPITAL/"SECURED PARTY" MOTION FOR RELIEF**

**FROM STAY- 1**

1  
2 **3- REORGANIZATION**

3 Debtors believe that the property is essential for Debtors reorganization plan since it has  
4 equity and can generate rental income which enables Debtors to be able to pay the  
5 "Secured Party" monthly mortgage.

6 **4- BEFORE THE FACT ARGUMENT**

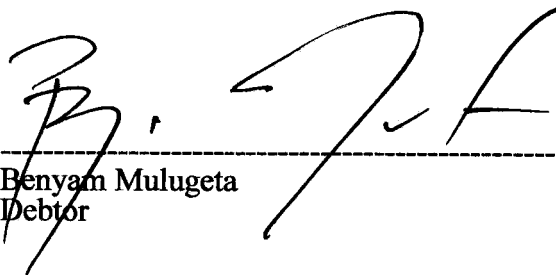
7 "Secured Party" **renews** their Motion for Relief from Automatic Stay based on an  
8 assumption that Debtors will not make the court order payment of \$4,000.00 per month  
9 starting November 10, 2010 to Deutsche Bank/JPMorgan Chase the 1<sup>st</sup> lien holder, and  
10 then the 1<sup>st</sup> lien holder MIGHT record Notice of Default, therefore "Secured Party" is  
11 entitle for Relief From Stay. Debtors argue that "Secured Party" argument is based on  
12 wish and assumption rather than fact. Thus, Debtors submit that the Court should reject  
13 the "Secured Party Motion for Relief from Automatic Stay since it is not based on reality  
14 and fact, rather false assumption. Debtors also submit that the "Secured Party" Motion is  
15 before the fact, thus do not have fact to support it..

16 **5- CONCLUSION**

17 The main reason Debtors filed Chapter 11 is to get protection from bankruptcy court, and  
18 to save their main residence "Harker" and to stabilized their estate from collapsing and  
19 submit reorganization plan that will enable them to emerge from bankruptcy as a viable  
20 and profitable entity. Debtors believe there is still a need of protection from the Court in  
21 order to achieve the objective and the purpose of filing Chapter 11. Debtors submit that  
22 there are good reasons exist as mentioned above why Automatic Stay remain in effective  
23 and NO GOOD CAUSE exist to grant Relief from Stay to "Secured Party."

24 **Based on the forgoing,** Debtors respectively request that the Court denies "Secured  
25 Party" Motion for Relief from Stay.

26 Dated: October 29, 2010

27  
28  
  
Benyam Mulugeta  
Debtor

DEBTORS OPPOSITION TO SEQUOIA MORTGAGE CAPITAL/"SECURED PARTY" MOTION FOR RELIEF

FROM STAY- 2

1 Tsegereda B. Mulugeta  
2 P.O. Box 407  
3 Palo Alto, Ca. 94302  
4 Tel: 650-575-7578

UNITED STATES BANKRUPTCY COURT  
NORTHER DISTRICT OF CALIFORNIA

5 In Re:

6 Benyam and Paula R. Mulugeta ) Case No. 09-51900 ASW  
7 ) Chapter 11  
8 Debtors )  
9 ----- )

10 **CERTIFICATE OF SERVICE**

11 I am a citizen of United States and residence of Santa Clara  
12 County. I am over the age of eighteen years and not a party to  
13 the above-entitled action, my address is 1025 Harker Ave., Palo  
14 Alto, Ca. 94301.

15 On October 29, 2010, I mailed a true and correct copy of the  
16 following documents.

17 **OPPOSITION "Secured Party" MOTION FOR RELIEF FROM STAY FOR**  
18 **REAL PROPERTY "Harker"**

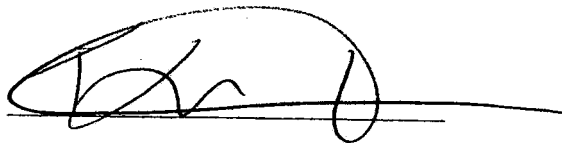
19 In the matter indicated below:

20 X By mail, by enclosing said document(s) in an envelop and  
21 depositing the sealed envelop with the United States service  
22 with the postage fully prepaid addressed and as follows:

23 **See Attached Mailing List**

24 This Certificate was executed on October 29, 2010 at Palo Alto,  
25 California. I declare under penalty of perjury that the  
26 foregoing is true and correct.

27 Dated: October 29, 2010

28 

Tsegereda Mulugeta

COURT SERVICE LIST  
CASE NO.: 09-51900 ASW

**U.S. TRUSTEE**

United States Trustee  
U.S. Federal Building  
280 S. 1<sup>st</sup> Street, #268  
San Jose, CA 95113-3004

SEQUOIA MORTGAGE CAPITAL  
c/o Patric J. Kelly, Esq.  
ADLESON, HESS & KELLY, APC  
577 Salmar Avenue, Second Floor  
Campbell, CA 95008

Lone Oak Fund, LLC  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
11400 West Olympic Boulevard, Ninth Floor  
Los Angeles, California 90064

Robert Taylor  
541B Cowper  
Palo Alto, CA 94301

Tomoko Nakama  
1569 Jackson St.  
Oakland, CA 94612

Aglaia Panos  
13240 Clairepointe Way  
Oakland, CA 94619

CASPER J. RANKIN (CA SBN 249196)  
TRAVIS J. LILLIE (CA SBN 267339)  
JOSEPH C. DELMOTTE (CA SBN 259460)  
PITE DUNCAN LLP  
4375 Jutland Drive, Suite 200  
P.O. Box 17933  
San Diego, CA 92177-0933  
Telephone: (858) 750-7600